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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. ~~1596.~~ 1172

EDWARD SMITH, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

FILED APRIL 1, 1890.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 1596.

EDWARD SMITH, PLAINTIFF IN ERROR,

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INDEX.

	Original.	Print.
Caption	1	1
Indictment	2	1
Bench warrant	8	4
Marshal's return	10	5
Order remitting cause to circuit court	10	5
Demurrer	11	5
Order to answer	12	6
Arraignment and pleas	12	6
Severance as to Alfred Brown	12	6
Jury sworn	13	7
Verdict	13	7
Motion in arrest of judgment	15	7
Non pros. as to Alfred Brown	15	7
Motion in arrest of judgment overruled	15	7
Judgment of death	16	8
Judgment of confinement	16	8
Memorandum as to date of verdict and judgment	18	9
Bill of exceptions	18	9
Petition of Peter Duncan to Secretary of State	20	10
Proclamation of Secretary of State, December 8, 1859	23	11
Shipping article, May 11, 1889	26	12
Testimony of John H. Haskell (recalled)	28	14
Petition and order for writ of error	29	14
Writ of error	30	15
Clerk's certificate	32	16

1 UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit [illegible] for the district of Maryland, begun and held at the [illegible] city of Baltimore on the first Monday of November, being the [illegible] of the same month, in the year of our Lord one thousand eight [illegible] and eighty-nine.

Present, the honorable Hugh L. Bond, circuit judge; Thomas J. Mo[illegible]ris, judge Maryland district; Thomas G. Hayes, esquire, attorney; [illegible] H. Cairnes, esquire, marshal; James W. Chew, clerk.

Among other were the following proceedings, to wit:

THE UNITED STATES
vs.
EDWARD SMITH, OTHERWISE CALLED "THE DEVIL."

Be it remembered that at a district court of the United States for the district of Maryland, begun and held on the first Tuesday of [illegible] in the year of our Lord one thousand eight hundred and eighty-[illegible] John R. Kelso, jr., Ross T. Penington, George F. Wise, James H. [illegible] Thomas J. Tongue, Arthur R. Maclellan, George E. Shreck, Wil[illegible]
T. Towles, George F. Nichols, James F. Wagner, Robert Cal[illegible]
2 Walter G. Smith, George Reis, Ernest H. Dryden, William [illegible] Spencer, Randolph Teawalt, Alexander L. Bogge, jr., Ha[illegible] Scott, and Albert Shriver, good and lawful men of the district afo[illegible] who, being empannelled, sworn, and charged to inquire for the U[illegible] States of America for the body of the district aforesaid, having with[illegible] from the bar of the court, afterwards return and present to the said [illegible] an indictment in form following, to wit:

UNITED STATES OF AMERICA,
District of Maryland:

In the district court of the United States in and for the district of Maryland.

The grand inquest of the United States of America, in and for the [illegible] trict of Maryland, inquiring for the body of said district, do on their [illegible] present, that Edward Smith (otherwise called "devil"), late of said [illegible] trict, yeoman, heretofore, on the 14th day of September, in the year [illegible] een hundred and eighty-nine, at Navassa Island, a place which then [illegible] there was under the sole and exclusive jurisdiction of the United [illegible] and out of the jurisdiction of any particular State or district of the United States, the same being, at the time of the committing of the offenses in the manner and form as hereinafter stated by the persons hereinafter named, an island, situated in the Caribbean Sea, and named Navassa Island, and which was then and there recognized and [illegible]
by the United States as containing a deposit of guano within the
3 meaning and terms of the laws of the United States relating to such islands, and which was then and there recognized and [illegible]

sidered by the United States as appertaining to the United States, and which was also then and there in the possession of the United States under the laws of the United States then and there in force relating to such islands, in and upon one Samuel Marsh, feloniously, wilfully, and of his malice aforethought, did make an assault, and that the said Edward Smith, with a certain stone, which he, the said Edward Smith, then and there had and held in his right hand, the said Samuel Marsh, in and upon the back part of the head of him, the said Samuel Marsh, then and there feloniously, wilfully, and of his malice aforethought, did strike, giving unto him, the said Samuel Marsh, then and there, with the said stone, by the stroke aforesaid, in manner aforesaid, in and upon the back part of the head of him, the said Samuel Marsh, one mortal wound, of which said mortal wound he, the said Samuel Marsh, on the said 14th day of September, in the year of our Lord eighteen hundred and eighty-nine, at Navassa Island aforesaid, did languish, and languishing did live. On the 28th day of September, in the year of our Lord eighteen hundred and eighty-nine, on board of the British gun-boat "Forward," which said gun-boat was then and there in the waters adjacent to the said Island of Navassa, he, the said Samuel Marsh, of the said mortal wound died.

And so the grand inquest aforesaid, on their oath aforesaid, do say that the said Edward Smith, him the said Samuel Marsh, in manner and form aforesaid, and by the means aforesaid, feloniously, willfully, and of his malice aforethought, did kill and murder.

4 And the grand inquest aforesaid, on their oath aforesaid, do further present that George S. Key, Alfred Jones, otherwise called "Texas Shorty," Charles H. Smith, otherwise called "John Ward," James H. Robinson, otherwise called "Snow," James Philips, Edmund Francis, otherwise called "Blueball," James Johnson, otherwise called Thomas Welsh, Alfred Brown, Moses Williams, otherwise called "Dakota," Edward Woodfork, Charles H. Davis, Stephen Peters, James Tasker, Norman Wooster, otherwise called "Juggler," Henry Jones, Cæsar Fisher, and Amos Lee, late of said district, yeomen, on the day and year aforesaid, at the Navassa Island aforesaid, feloniously were present aiding, abetting, and assisting the said Edward Smith the felony and murder aforesaid to do and commit.

And the grand inquest aforesaid, on their oath aforesaid, do further present that the said district of Maryland was the district of the United States into which the said Henry Jones, Cæsar Fisher, George S. Key, Alfred Jones, otherwise called "Texas Shorty," Charles H. Smith, otherwise called "John Ward," James H. Robinson, otherwise called "Snow," James Philips, Edmund Francis, otherwise called Blueball," James Johnson, otherwise called "Thomas Welsh," Alfred Brown, Moses Williams, otherwise called "Dakota," Edward Woodfork, Edward Smith, otherwise called "Devil," Charles H. Davis, Stephen Peters, James Tasker, Norman Wooster, otherwise called "Juggler," and Amos Lee, after committing the felony aforesaid, in manner and form as aforesaid, at Navassa Island aforesaid, on the day and year aforesaid, were first brought

5 from the said island of Navassa contrary to the statutes of the United States in such case made and provided, against the peace, government, and dignity of the United States.

And the grand inquest aforesaid, on their oath aforesaid, do present that the said Edward Smith, otherwise called "Dave," district, yeoman, heretofore on the 14th day of September, in our Lord eighteen hundred and eighty-nine, at Navassa Island, which, then and there, was under the sole and exclusive jurisdiction United States and out of the jurisdiction of any particular State trict of the United States, the same being, at the time of the of the offenses in the manner and form as hereinafter stated by the hereinafter named, an island situated in the Caribbean Sea, and Navassa Island, and which was, then and there, recognized and by the United States as containing a deposit of guano within the and terms of the laws of the United States relating to such islands which was, then and there, recognized and considered by the United as appertaining to the United States, and which was also, then and in the possession of the United States, under the laws of the United then and there, in force relating to such islands; in and upon one Marsh feloniously, wilfully, and of his malice aforethought did make

6 sault, and that the said Edward Smith with a certain stone, which he, the said Edward Smith, then and there, had and held in his hand, in and upon the back part of the head of him, the said Marsh, then and there, feloniously, wilfully, and of his malice aforethought did strike, giving unto him, the said Samuel Marsh, then and there, with the said stone by the stroke aforesaid, in manner aforesaid, in and upon the back part of the head of him, the said Samuel Marsh, one mortal wound of which said mortal wound he, the said Samuel Marsh, on the said 14th day of September, in the year of our Lord eighteen hundred and eighty-nine, at Navassa Island aforesaid, did languish, and languishing did live. On the 28th day of September, in the year of our Lord eighteen hundred and eighty-nine, on board of the British gun-boat Forward, which said gunboat was, then and there, in the waters adjacent to the said island of Navassa, he, the said Samuel Marsh, of said mortal wound died.

And so the grand inquest aforesaid, on their oath aforesaid, do say that the said Edward Smith him, the said Samuel Marsh, in manner and form aforesaid, and by the means aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder.

And the grand inquest aforesaid, on their oath aforesaid, do further present that the said district of Maryland was the district of the United States into which the said Edward Smith, after committing the murder aforesaid, in the manner and form aforesaid, was first brought from the Navassa Island aforesaid.

And the grand inquest aforesaid, on their oath aforesaid, do further present that the said George S. Key, Henry Jones, Cæsar Fisher,

7 Alfred Jones, otherwise called "Texas Shorty," Charles H. Smith, otherwise called "John Ward," James H. Robinson, otherwise called "Snow," James Philips, Edmund Francis, otherwise called "Blueball," James Johnson, otherwise called "Thomas Welsh," Alfred Brown, Moses Williams, otherwise called "Dakota," Edward Woodfork, Charles H. Davis, Stephen Peters, James Tasker, Norman Wooster, otherwise

called "Juggler," and Amos Lee, late of said district, yeomen, before the said felony and murder was committed by the said Edward Smith, in the manner and form aforesaid, to wit, on the 14th day of September, in the year of our Lord eighteen hundred and eighty-nine, at Navassa Island, a place which, then and there, was under the sole and exclusive jurisdiction of the United States and out of the jurisdiction of any particular State or district of the United States, the same being, at the time of the committing of the offenses in the manner and form as hereinafter stated by the persons hereinafter named, an island situated in the Caribbean Sea, and named Navassa Island, and which was then and there recognized and considered by the United States as containing a deposit of guano, within the meaning and terms of the laws of the United States relating to such islands, and which was then and there recognized and considered by the United States as appertaining to the United States, and which was also then and there in the possession of the United States under the laws of the United States, then and there, in force, relating to such islands, did feloniously, wilfully, knowingly, and maliciously aid, abet, cause, procure, command, and counsel the said Edward Smith to do and commit
8 the said felony and murder, in manner and form aforesaid.

And the grand inquest aforesaid, on their oath aforesaid, do further present that the said district of Maryland was the district of the United States into which the said George S. Key, Henry Jones, Alfred Jones, otherwise called "Texas Shorty," Charles H. Smith, otherwise called "John Ward," James H. Robinson, otherwise called "Snow," James Phillips, Edmund Francis, otherwise called "Blueball," James Johnson, otherwise called "Thomas Welsh," Alfred Brown, Moses Williams, otherwise called "Dakota," Edward Woodfork, Charles H. Davis, Stephen Peters, James Tasker, Norman Wooster, otherwise called "Juggler," Amos Lee and Caesar Fisher, after feloniously, wilfully, knowingly, and maliciously aiding, abetting, causing, procuring, commanding, and counselling the said Edward Smith to do and commit the said felony and murder in manner and form aforesaid, at Navassa Island aforesaid, on the day and year aforesaid, were first brought from the said Navassa Island.

Contrary to the statutes of the United States in such case made and provided, and against the peace, Government, and dignity of the United States.

THOMAS G. HAYES,
Attorney of the United States for the District of Maryland.

Which said indictment is endorsed as follows, to wit: "A true bill, John R. Kelso, jr., foreman."

Bench warrant.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

9 To the marshal of the Maryland district, greeting:

We command you that you apprehend Edward Smith, otherwise called "Devil," George S. Key, Alfred Jones, otherwise called "Texas Shorty," Charles H. Smith, otherwise called "John Ward," James H. Robinson, otherwise called "Snow," James Philips, Edmund Francis,

otherwise called "Blueball," James Johnson, otherwise called "Thomas Welsh," Alfred Brown, Moses Williams, otherwise called [illegible], Edward Woodfork, Charles H. Davis, Stephen Brown, Norman Wooster, otherwise called "Jaggles," Henry [illegible], Fisher, and Amos Lee, and them immediately have before the said court of the United States for the Maryland district to answer [illegible] indictment for that they did on the 14th day of September, A. D. [illegible] at Navassa Island, murder one Samuel Marsh.

Contrary to the form of the statutes in such case made and provided and against the peace, Government, and dignity of the United States.

Hereof you are not to fail at your peril, and have you there [illegible] this writ.

Witness the Hon. Thomas J. Morris, judge of our said district court, the 14th day of November, in the year eighteen hundred and eighty-nine.

[SEAL.] JAMES W. CHEW,
Clerk Dt. C. U. S.

Issue November 14, 1889.

10 *Marshal's return.*

"Cepi omnes, Geo. H. Cairnes, U. S. marshal."

Order remitting case to circuit court.—Filed November 14th, 1889.

THE UNITED STATES
vs.
EDWARD SMITH AND OTHERS.

In the district court of the United States for the district of Maryland. September term, 1889.

On motion of the attorney of the United States for the Maryland district:

It is by the court, this 14th day of November, A. D. 1889, ordered that the indictment and all the proceedings in this case be remitted to the circuit court of the United States for the fourth circuit in and for the Maryland district, at a session to be held on the 15th day of November, A. D. [illegible] in pursuance of the 1039 section of the Revised Statute of the United States, and that this order be entered on the minutes of the court.

THOS. J. MORRIS,
District Judge.

Whereupon the said indictment, process, and proceedings of the said district court are remitted to the circuit court here in pursuance of section 1039 of the Revised Statutes of the United States.

11 And thereupon the said Edward Smith, otherwise called "[illegible]," George S. Key, Alfred Jones, otherwise called "Tom [illegible]," Charles H. Smith, otherwise called "John Ward," James H. [illegible], otherwise called "Snow," James Philips, Edmund French, [illegible] called "Blueball," James Johnson, otherwise called "Thomas [illegible]

Alfred Brown, Moses Williams, otherwise called "Dakota," Edward Woodfork, Charles H. Davis, Stephen Peters, James Tasker, Norman Wooster, otherwise called "Juggler," Henry Jones, Cæsar Fisher, and Amos Lee, come to the bar of the court here in their proper persons under the custody of the marshal of the said district, and by their counsel file in court here a demurrer to the said indictment in the words following, to wit:

Demurrer.—Filed November 15th, 1889.

THE UNITED STATES
vs.
EDWARD SMITH ET AL.

In the circuit court of the United States for the district of Maryland.—Indictment No. 2.—November term, 1889.

The defendants, by their attorneys and counsel in their behalf and as advised by counsel, say that the indictment aforesaid, in the cause aforesaid, against them exhibited is bad in law, and they hereby demur thereto and say that by no matter or thing alleged therein are they in law obliged to plead to the same.

A. STIRLING,
J. E. STIRLING,
JOS. S. DAVIS,
E. J. WARING,
Atty's and Counsel for Defts.

12 Whereupon all and singular the premises being seen and by the court here fully understood, it is considered by the court here that the said indictment and the matters therein contained are sufficient in law to compel the said prisoners to answer thereto.

Arraignment and pleas.

And thereupon the said Edward Smith, otherwise called "Devil," George S. Key, Alfred Jones, otherwise called "Texas Shorty," Charles H. Smith, otherwise called "John Ward," James H. Robinson, otherwise called "Snow," James Philips, Edmund Francis, otherwise called "Blueball," James Johnson, otherwise called "Thomas Welsh," Alfred Brown, Moses Williams, otherwise called "Dakota," Edward Woodfork, Charles H. Davis, Stephen Peters, James Tasker, Norman Wooster, otherwise called "Juggler," Henry Jones, Cæsar Fisher, and Amos Lee, having had hearing of the said indictment and forthwith being demanded of each of them concerning the premises in the said indictment above specified and charged upon them how they will acquit themselves thereof, they, each and separately, say that they are not guilty thereof, and thereof for good and evil they put themselves upon the country, and the said Thomas G. Hayes, esquire, attorney of the United States for the district aforesaid, who in this behalf prosecuteth, doth the like.

Severance as to Alfred Brown.

13 Thereupon, by the consent of the district attorney, of A[illegible] Brown, and of counsel for all the prisoners, leave was granted the court and severance was made as to the said Alfred Brown, prisoner being too sick to remain in court.

Jury sworn.

Whereupon the panel of petit jurors selected, drawn, and returned the court here in pursuance of, and in accordance with, the statute in case made and provided, being called, come; whereupon certain of to wit, Robert W. Christopher, Frank Nolan, Robert J. Wilson, J. Sparklin, William H. Abrahams, Thomas M. Dukehart, Charles Pentz, Philip Gover, Wiley E. Cushing, Benjamin F. Willis, Charles McComas, Russell R. McCord, are sworn to say the truth in the premises.

Verdict.

And the said jurors, so being empaneled and sworn to say the truth the premises, upon their oath do say, that the said Edward Smith, "Devil," is guilty of the murder aforesaid, in both of the counts in indictment above charged and imposed upon him; that the said Geo[illegible] Key is not guilty on both counts of the said indictment; that the Alfred Jones, alias "Texas Shorty," is not guilty of murder, but guilty of manslaughter on the first count of the indictment, and guilty on the second count; that the said Charles H. Smith, "John Ward," is not guilty of murder, but is guilty of
14 slaughter on the first count of the indictment, and not guilty the second count; that the said James H. Robinson, alias "[illegible] is not guilty of murder, but is guilty of manslaughter on the first count the indictment, and not guilty on the second count; that the said J[illegible] Phillips is not guilty of murder, but is guilty of manslaughter on the count of the indictment, and not guilty on the second count; that the Edmund Francis, alias "Blueball," is not guilty of murder, but is guilty manslaughter on the first count of the indictment, and not guilty on second count; that the said James Johnson, alias "Thomas Welsh," is guilty of murder, but is guilty of manslaughter on the first count of the dictment, and not guilty on the second count; that the said Moses W[illegible] iams, alias "Dakota," is not guilty on both counts of the indictment; the said Edward Woodfork is not guilty on both counts of the indictment that the said Charles H. Davis is not guilty of murder, but is guilty manslaughter on the first count of the indictment, and not guilty on second count; that the said Stephen Peters is not guilty of murder, but guilty of manslaughter on the first count of the indictment, and not guilty on the second count; that the said James Tasker is not guilty on both counts of the indictment; that the said Norman Wooster, alias "Jugg[illegible] is not guilty on both counts of the indictment; that the said Henry [illegible] is not guilty of murder, but is guilty of manslaughter on the first count the indictment, and not guilty on the second count; that the
15 Cæsar Fisher is not guilty of murder, but is guilty of manslaughter on the first count of the indictment, and not guilty on the

count; that the said Amos Lee is not guilty of murder, but is guilty of manslaughter on the first count of the indictment, and not guilty on the second count.

Motion in arrest of judgment.—Filed February 12, 1890.

U. S.
vs.
SMITH *et al.* } For murder of Samuel Marsh.

U. S. circuit court.

The defendants move the court in arrest of judgment for error apparent in the record of the cause.

A. STIRLING AND SON.
E. J. WARING.
JOS. S. DAVIS.

The prisoners by their counsel.

Non pros. as to Alfred Brown.

And thereupon, on the 15th day of February, 1890, on motion of the attorney for the United States, a non pros. is entered as to the said Alfred Brown.

And thereupon, afterwards, on the 20th day of February, 1890, the motion in arrest of judgment is by the court here overruled.

16 *Judgment of death.*

And thereupon the said Edward Smith, alias "Devil," being brought to the bar of the court here, it is forthwith demanded of the said Edward Smith, alias "Devil," if he hath or knoweth anything to say wherefore the court here ought not upon the premises and verdict aforesaid to proceed to judgment against him. Who nothing further saith, unless he before hath said; whereupon all and singular the premises being seen, and by the court here fully understood, it is therefore considered by the court here that the said Edward Smith, alias "Devil," be hanged by the neck until he be dead; that the marshal of this district, or one of his deputies, do cause execution to be done in the premises on the 28th day of March next ensuing; that he be now taken hence to the Baltimore City jail to be there or in some other safe and convenient place within this district safely kept until the day of execution, and from thence on the day of execution appointed he be taken to the place of execution, there to be hanged by the neck until he be dead.

Judgment of confinement in the penitentiary.

Therefore it is considered by the court here that the said Alfred Jones, alias "Texas Shorty," and Edmund Francis, alias "Blueball," do undergo a confinement at hard labor in the Albany County penitentiary, situated at Albany, in the State of New York, for the period of ten years, to run concurrent with the sentence in the case of the United
17 States versus Henry Jones and others, and that each of them do pay a fine of one hundred dollars; and that the said Charles H. Smith, alias "John Ward," and James Johnson, alias "Thomas Welsh,"

do each undergo a confinement at hard labor for the [illegible] tentiary, situated at Albany, in the State of New York, [illegible] five years, to run concurrent with the sentence in the [illegible] States versus Henry Jones and others, and that each of [illegible] fine of one hundred dollars; and that the said James H. [illegible] "Snow," James Phillips, Charles H. Davis, and Stephen [illegible] dergo a confinement at hard labor in the Albany County [illegible] situated at Albany, in the State of New York, for the period of [illegible] and that each of them do pay a fine of one hundred dollars; [illegible] said Amos Lee do undergo a confinement at hard labor in the [illegible] County penitentiary, situated at Albany, in the State of New York, [illegible] period of two years, to run concurrent with the sentence in the [illegible] United States versus Henry Jones and others, and that he pay a fine of [illegible] one hundred dollars; and that the said Cæsar Fisher do undergo a confinement at hard labor in the Albany County penitentiary, situated at Albany, in the State of New York, for the period of eight years, to run concurrent with the sentence in the case of the United States versus Henry Jones and others, and that he pay a fine of one hundred dollars; and that the said Alfred Jones, alias "Texas Shorty," Edmund Francis, alias "[illegible] ball," Charles H. Smith, alias "John Ward," James [illegible] "Thomas Welsh," James H. Robinson, alias "Snow," James [illegible] Charles H. Davis, Stephen Peters, Amos Lee, and Cæsar Fisher be committed to the custody of the marshal of this district, to be by him as soon as possible safely removed to the penitentiary aforesaid, therein to be kept, etc.

18

Memorandum.

Verdict in this case was rendered on the 12th day of February, 1[illegible] and judgment was rendered on the 20th day of February, 1890.

Before the jurors withdrew from the bar of the court here the said Edward Smith, alias "Devil," by his attorneys, filed in court here [illegible] of exceptions, which is as follows, to wit:

Bill of exceptions.

In the circuit court of the United States, for the district of Maryland.

THE UNITED STATES
vs.
EDWARD SMITH.

Indictment for murder.

At the trial of this case before court and jury in the circuit court of the United States for the district of Maryland, the defendant, Edward Smith, before the jury had retired from the bar of the court to consider their verdict, tendered to the court the following bill of exceptions:

19

The United States, to support the issues on their part, proved that the defendant, after the act for which he is indicted was committed, was first brought into the Maryland district as alleged in the indictment.

24 Lewis Cass, Secretary of State of the United States, to all to whom these presents shall come, greeting:

Know ye that Peter Duncan, a citizen of the United States, has filed in this Department the required notice of the discovery of guano on and of the occupation of the island of Navassa, in the Caribbean Sea, in the name of the United States of America, the same being in north latitude eighteen degrees and ten minutes and in longitude seventy-five degrees west; and that Edward K. Cooper, also a citizen of the United States, and the assignee of the said Peter Duncan, has entered into sufficient bonds under and according to the provisions of the act of the Congress of the United States passed on the eighteenth day of August in the year eighteen hundred and fifty-six; wherefore the said Edward K. Cooper is entitled, in respect to the guano on the said island, to all the privileges and advantages intended by that act to be secured to citizens of the United States who may have discovered deposits of guano; provided always, that the said Edward K. Cooper shall abide by the conditions and requirements imposed by the act of Congress aforesaid.

In witness whereof I, Lewis Cass, Secretary of State of the United States of America, have hereunto set my hand and caused the seal of the Department of State to be affixed at Washington this eighth day of December, 1859.

[SEAL.] LEW CASS.

25 And that at the time of the commission of said act the persons on the island consisted of 137 colored laborers of said company and 11 white officers or superintendents, all of whom were residents of the United States, appointed by the company, the laborers, including the defendant, being employed in digging the phosphate guano and transporting by railroad propelled by man power and handling and putting on shipboard the phosphate or guano found on the island, which digging and mining is carried on by digging and blasting with dynamite and working with picks and other iron tools, and which phosphate guano so mined is the article called Navassa phosphate in the market, and is the only substance on the island which is dug, mined, worked, transported, or sold, the said laborers being shipped at Baltimore under a shipping article, as follows:

26 NAVASSA PHOSPHATE COMPANY,
20 and 22 South street, Baltimore.

This agreement, made at Baltimore this 11th day of May, 1889, by and between the Navassa Phosphate Company, of the first part, and the undersigned, laborers of the United States, of the second part, as follows: Said laborers agree to proceed under the orders and instructions of said Navassa Phosphate Company or their agents, on board such vessel as shall be provided for the purpose, to Navassa Island, for the business of assisting in loading of vessels with cargo, either by working on shore or in boats; and for this purpose the parties of the second part hereby covenant and agree to devote their whole time and services in such labor as they may be directed to do by said Navassa Phosphate Company or their agents, and for as many months as the said Navassa Phosphate Company desire, not ex-

ceeding in all fifteen months, from the time of arriving [illegible] until discharged therefrom, at which time their wages shall cease. And the said Navassa Phosphate Company agrees, [illegible] to pay said undersigned the monthly wages set opposite their names, and to furnish a free passage to and from said island of Navassa and further, to find said undersigned laborers in the usual provisions [illegible] nished such laborers free of all expense to the parties of the second part.

Payment of wages to be made on the return of the parties of the second part to Baltimore. And should they fail to obey the orders and instructions of said Navassa Phosphate Company or their agents, or refuse at any time to labor, they shall forfeit all claim for wages and compensation which may be due them.

If said Navassa Phosphate Company fails to comply with this agreement on their part they shall forfeit the sum of twenty dollars in addition to full monthly wages and free passage to the parties of the second part by this contract. The parties of the second part further agree in case of sickness or lost time to pay the said Navassa Phosphate Company 50 cents per day board, and said Navassa Phosphate Company not to be liable for any wages or compensation for time lost by the parties of the second part by sickness or otherwise.

It is further understood and agreed to by the parties of the second part that in case they are not competent to perform the duties as herein stated they to pay their passage back to the United States, and the parties of the first part not to be liable for any wages whatsoever. It is also understood that 50 cents per month shall be deducted from the wages of the parties of the second part for medicines and medical attention.

NAVASSA PHOSPHATE COMPANY,
Per JOHN H. HASKELL, for the Co.

In consideration to the foregoing and the advance wages set opposite our names, the receipt whereof is hereby acknowledged, we have signed this contract in duplicate, as witness our hands—

(Across the face in red ink:) The parties of the second part agree, on signing this contract, to obey and abide by all the rules, regulations, and laws that may now be in operation or hereafter put in force on the island of Navassa, West Indies, for the better protection of life and property and that may be deemed necessary for police protection and discipline of the island, and release said Navassa Phosphate Company from any and all liability for any injury arising from accident or from any acts of any officer or employé on the island of Navassa.

27 Signatures.	Monthly wages.	Advance paid.	Witness to signature and payment.	Age.	Place of birth.
			C. Bibbins.		
* * * * * * * * * *	* *	* *	* * * *	* *	* *
No. 7.—Edward x Smith his mark	$25.00	$10.00	do.	23	Va.

We hereby certify that we, the undersigned, were present on board the brig Romance, in the harbor of Baltimore, Md., when the above [illegible] men acknowledged that they had signed the above contract, and that [illegible]

were willing to go to Navassa Island, W. I., and obey all orders, rules, and regulations; that the advance set opposite their respective names was correct, and that they had received the money.

FRED'K ABBOTT,
Master.
CHAS. BROWN,
Mate.
JOHN W. PEED, SR.,
Shipper.

BALTIMORE, *May* 11, 1889.

That on the 14th day of September, 1889, a riot took place, in which a large number of the laborers were engaged, on which day, and under circumstances which the jury found amounted to murder, the defendant killed Samuel Marsh, one of the white officers, as charged in the indictment. The prisoner during the trial, after such proof by the United States, made an offer of proof from a witness then sworn and on the stand by call of the defendant, which proof is as follows as the offer of it was made:

28 (John H. Haskell.)

JOHN H. HASKELL, recalled.

Q. (By Mr. STIRLING.) State whether you know, from the records of the company, that a vessel was loaded with this phosphate of lime at Navassa, after the 16th of April, 1889, the vessel being a foreign vessel, and the cargo being intended for the use of persons other than residents or citizens of the United States?

Mr. HAYES. Let it come in as it did before. Let the stenographer record the answer, and then I will move the court to strike it out as irrelevant. Of course, we object to the question.

The COURT. Let the witness answer the question, and then I will strike it all out as immaterial.

A. A vessel was loading at the time—was more than half loaded—on the 16th of April, 1889.

Q. When did she finish loading?

A. A few days afterwards.

Q. A vessel under the circumstances and of the character asked in the question?

A. Yes, sir.

The COURT. As suggested before, my opinion is that this does not in any way affect the parties to this case. I therefore rule it out from the consideration of the jury as immaterial.

Mr. STIRLING. If your honor please, we ask to have an exception noted.

Which testimony so offered the court ruled out and withdrew from the consideration of the jury as immaterial, to which ruling the defendant excepted, which exception was accordingly overruled by the court,
29 and the defendant as herein aforesaid excepted, and presented this bill of exceptions to the court, and requested the court to sign and seal the same. It is so done by the court this 21st day of December, 1889.

THOS. J. MORRIS, [SEAL.]
Judge.

Petition and order for writ of error.—Filed March 19th, 1883.

THE U. S.
vs.
EDWARD SMITH.

In the circuit court of the United States for the district of Maryland.—November [illegible], 1882.

To the honorable the judges of said court:

The defendant, Edward Smith, prays the court to order the issue of a writ of error to the Supreme Court of the United States from the final judgment of the court against this respondent, sentencing him to suffer death for the murder of Samuel March, the said judgment being passed upon the conviction of the respondent in the trial had during the present term at which this petition is filed.

his
EDWARD x SMITH.
mark

Witness:
JOHN H. MEYER,
Deputy Warden.

ARCHIBALD STIRLING,
E. J. WARING,
JOSEPH S. DAVIS,
J. EDWARD STIRLING,
Attorneys for Respondent.

Let the writ issue as prayed.

HUGH L. BOND,
Ct. Judge.
THOS. J. MORRIS,
Dt. Judge.

30 *Writ of error.*

31 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the circuit court of the United States for the district of Maryland, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between the United States and Edward Smith a manifest error hath happened, to the great damage of the said Edward Smith, who was convicted of murder and sentenced to death, as by his complaint appears, we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court, to be

then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right, and according to the laws and customs of the United States, should be done.

Witness the honorable Melville W. Fuller, Chief-Justice of the said Supreme Court, the 18th day of March, in the year of our Lord one thousand eight hundred and ninety.

[SEAL.] JAMES W. CHEW,
Clerk of the Circuit Court of the United States,
Fourth Circuit and District of Maryland.

Allowed by

HUGH L. BOND,
C't Judge.
THOS. J. MORRIS,
District Judge.

Citation waived.

THOMAS G. HAYES,
U. S. Att'y.

32 In pursuance of the said writ of error, and in accordance with the statute in such case made and provided, a record of the judgment aforesaid, with all things thereunto relating, together with the said writ of error annexed, is hereby transmitted to the said Supreme Court of the United States accordingly.

UNITED STATES OF AMERICA,
District of Maryland, to wit:

I, James W. Chew, clerk of the circuit court of the United States for the fourth circuit in and for the district of Maryland, do certify that the aforegoing is a full and true record of the proceedings and judgment in the said prosecution against the said Edward Smith, alias "Devil," and others, lately depending in the said court.

In testimony whereof I hereto set my hand and affix the seal of the said court on this 27th day of March, A. D. 1890.

[SEAL.] JAS. W. CHEW,
Clerk of said Circuit Court.

32½ (Indorsement on cover:) No. 1596. Edward Smith, plaintiff in error, vs. The United States. Maryland C. C. U. S. Filed April 1, 1890. Supreme Court U. S., Clerk's office. Received Mar. 31, 1890.